

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:07-cr-139-WKW
)	
AZUCENAS GARCIA)	
)	
JUAN UBALDO-VIEZCA)	

ORDER

This case is before the court on defendant Ubaldo-Viezca's Unopposed Motion to Continue Trial (Doc. # 107). The criminal case is currently set for trial during the May 5, 2008, trial term. For the reasons that follow, the court finds that the trial for all defendants should be continued pursuant to 18 U.S.C. § 3161(h).

While the grant of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the Court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

18 U.S.C. § 3161(c)(1). However, the Act excludes from the 70 day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." *Id.* § 3161(h)(8)(A). Additionally, the Act excludes "[a] reasonable period of delay when the defendant is joined for trial with

a codefendant as to whom the time for trial has not run and no motion for severance has been granted.” *Id.* § 3161(h)(7).

The court finds that the ends of justice served by continuing this trial outweigh the best interest of the public and all defendants in a speedy trial. Mr. Ubaldo-Vieczka states that he needs more time to prepare for trial based on new evidence. The government does not oppose the continuance. Accordingly, it is ORDERED that the Mr. Ubaldo-Vieczka’s Motion to Continue Trial (Doc. # 107) is GRANTED. The court also continues the trial date of Ms. Garcia. The trial in this matter *for all defendants* is continued from **May 5, 2008**, to the criminal term of court beginning on **August 18, 2008**.

DONE this 18th day of April, 2008.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE